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| SUPERIOR COURT OF WASHINGTON FOR YAKIMA COUNTY SUPERIOR COURT YAKIMA, WASHINGTON | |
|--|---|
| STATE OF WASHINGTON vs EDGAR OMAR HERRERA FARIAS SID NO WA26621683 Motor Vehicle Involved No D L # HERREE0133NP, DOC Unk, DOB 8/17/1987, SEX Male, RACE Hispanic | Plaintiff, NO. 12-1-00447-7 FELONY JUDGMENT AND SENTENCE (FJS) <input checked="" type="checkbox"/> Jail - Felony <input checked="" type="checkbox"/> Community Custody Ordered <input checked="" type="checkbox"/> Clerk's Action Required: 4.D.8 (Payroll Deduction); 5.2 (NLVR); 5.5 (NTIPF) Defendant |

I. HEARING

1.1 Hearing: A sentencing hearing was held August 23, 2012 Present were the defendant, ADAM MOORE, attorney for the defendant, and SUSAN SWADBERG SILVERTHORN, Deputy Prosecuting Attorney

1.2 Allocution: The defendant was given the right of allocution and asked if any legal cause existed why judgment should not be entered There being no reason why judgment should not be pronounced, the Court makes the following findings and judgment

II. FINDINGS

Based on testimony heard, statements by the defendant and/or victims, argument of counsel, any pre-sentence report, and case record to date, the court finds

2.1 Current Offense(s): On August 23, 2012, the defendant was found guilty by a plea to

Count 1 **Crime: POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, WITH INTENT TO DELIVER RCW 69.50.401(1)**
Date of Crime March 22, 2012
Law Enforcement Incident No LEAD Task Force #12-005

2.2 Special Findings: The Court makes no special findings

2.3 Criminal History: Prior criminal history used in calculating the offender score (RCW 9 94A 525)

| Crime | Date of Sentence | Sentencing Court (County & State) | Date of Crime | Adult or Juvenile | Type of Crime |
|-------|------------------|-----------------------------------|---------------|-------------------|---------------|
| None | | | | | |

2.4 Other Current Convictions under other cause number(s) used to determine offender score

| Crime | Cause Number | Court (County and State) |
|-------|--------------|--------------------------|
| None | | |

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2.5 Sentencing Data: The following is the defendant's standard range for each crime pursuant to RCW 9 94A 517

| Count | Offender Score | Seriousness Level | Standard Range | Enhancements* | Enhanced Range | Maximum Term |
|-------|----------------|-------------------|----------------|---------------|----------------|--------------|
| 1 | 0 | II | 12+-20 mos | | | 10 years |

2.6 Exceptional Sentence: Substantial and compelling reasons exist which justify an exceptional sentence Pursuant to State v Hilyard, 63 Wn App 413 (1991), *petition for review denied*, 118 Wn 2d 1025 (1992), the Court finds that an exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act

☒ The defendant and State stipulate that justice is best served by imposition of an exceptional sentence below the standard range of 12+-20 months for Count 1 The defendant and State stipulate that this sentence is not subject to appeal

2.7 Financial Ability: The Court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change The court finds that the defendant is an adult and is not disabled and therefore has the ability or likely future ability to pay the legal financial obligations imposed herein RCW 9 94A 753

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9 94A 753)

III. JUDGMENT

3.1 Guilty: IT IS ADJUDGED that the defendant is guilty of the counts and charges listed in paragraph 2 1

3.2 Exceptional Sentence: Pursuant to State v Hilyard, 63 Wn App 413 (1991), *petition for review denied*, 118 Wn 2d 1025 (1992), the Court is justified in entering an exceptional sentence of 3 months, which is below the standard range of 12+-20 months

IV. SENTENCE AND ORDER

IT IS ORDERED that the defendant serve the sentence and abide by the conditions set forth below

A. CONFINEMENT

4.A.1 Confinement: The defendant is sentenced to the following term of confinement

3 Months on Count 1

☒ **Credit for Time Served in the Yakima County Jail** The defendant shall be given credit for 47 days served on this charge only. The defendant shall be given credit for good behavior as administered and computed by the Yakima County Department of Corrections

☐ **Credit for Time in Other Jail:** The defendant shall receive _____ days credit for time served on this case ☐ in jail or prison _____, ☐ in transport from _____, ☐ in other _____

4.A.2 Concurrent or Consecutive:

☒ **Consecutive With Other Sentences:** Unless otherwise specified here, this sentence shall be consecutive with prior sentences

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4.A.3 Means of Confinement: The defendant shall serve this sentence as follows

☐ **Total Confinement** The defendant shall serve the balance of confinement in a jail operated by the Yakima County Department of Corrections because the term of confinement is one year or less

☐ **Total Confinement for Portion of Sentence** The defendant shall serve _____ of the balance of confinement in a prison operated by the Washington State Department of Corrections if the term of confinement is over one year, and in a jail operated by the Yakima County Department of Corrections if the term of confinement is one year or less

☒ **Partial Confinement:** The defendant may serve the balance of confinement in one of the approved alternatives to jail if eligible and accepted by the facility below

☒ **Home Detention:** Yakima County Work Ethic Detention Center at 2403 S 18th Street, Union Gap, WA 3 months of confinement are converted to home detention

☐ **Electronic Home Monitoring (EHM):** Yakima County Work Ethic Detention Center at 2403 S 18th Street, Union Gap, WA ☐ 60 ☐ 90 ☐ 120 ☐ 150 days of confinement are converted to electronic home monitoring

☒ **Screening for Partial Confinement:** If partial confinement is ordered and the defendant is not in custody, the defendant shall report to the above facility for screening by no later than 4 00 p m on 8/31/12

☐ **Other:** _____

☒ **If Partial Confinement Is Denied by the Facility:** If partial confinement is approved here, but the defendant was not accepted by the partial confinement facility above, the defendant shall report to the Yakima County Jail to serve this portion of the sentence in total confinement by the date in paragraph 4 A 4 below. The defendant shall follow all rules and regulations of the program. The defendant's failure to start or complete the partial confinement as directed by the Court and the facility, or failure to comply with all rules and regulations of this facility or program shall result in defendant's arrest and return to jail to serve the remainder of the sentence

☒ **Complete Partial Confinement:** If partial confinement is approved here, the defendant shall complete any partial confinement by _____, or within six months of the date of this sentence, whichever is longer

☐ **No Partial Confinement:** Alternatives to total confinement were not used because of ☐ criminal history ☐ failure to appear history ☐ _____ RCW 9 94A 680 (reasons must be given for nonviolent offenders only)

4.A.4 Time of Confinement: If not already in custody, the defendant shall report to the above facility ☐ immediately ☒ on or before 10/11/12 by 9 a m / p m to begin serving this sentence

B. SUPERVISION BY THE DEPARTMENT OF CORRECTIONS

4.B.1 Community Custody: The defendant shall serve community custody for a period of 12 months on Count 1 pursuant to RCW 9 94A 702 to commence upon the date of this order and shall comply with the conditions and crime related prohibitions as set forth below. During the time the defendant is in total or partial confinement pursuant to this sentence or a violation of this sentence, the period of community custody shall toll. The defendant shall report, in person, within 24 hours of this order or release from incarceration, whichever is later, to the Washington State Department of Corrections, 210 North Second Street, Yakima, Washington

☐ **4.B.2 No Community Custody or Probation:** If checked and initialed by the Court, the defendant shall not be subject to community custody or probation

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C. SENTENCE CONDITIONS

4.C.1 DNA Testing: The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. If you are out of custody at the time of sentencing, you will immediately report to the front desk of the Yakima County Jail for the taking of a DNA sample. RCW 43 43 754

4.C.2 Conditions of Community Custody or Probation: While the defendant is on community custody, community placement, or probation, the defendant shall comply with each of the conditions below

- ☒ Report to and be available for contact with the assigned community corrections officer as directed
- ☒ Cooperate fully with the supervising Community Corrections Officer
- ☒ Perform such affirmative acts necessary for the Department of Corrections to monitor compliance with the court's orders
- ☒ Work at Department of Corrections-approved education, employment and/or community service
- ☒ Do not unlawfully possess or consume any controlled substances except pursuant to a lawfully issued prescription
- ☒ Pay supervision fees as determined by the Department of Corrections
- ☒ Residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community custody
- ☒ Allow home visits by the Department of Corrections to monitor compliance with supervision. Home visits must include access for the purposes of visual inspection of all areas of the residence in which the defendant lives or has exclusive or joint control or access
- ☒ Not own, use, or possess, including constructively, any firearm or ammunition
- ☒ Maintain law-abiding behavior and commit no new crimes
- ☒ If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify the Department of Corrections, and the defendant's treatment information must be shared with the Department of Corrections for the duration of the defendant's incarceration and supervision. RCW 9 94A 562
- ☒ Report no later than the next business day after sentencing or release from jail to a Washington State approved drug assessment facility for evaluation. Cooperate fully with the facility and immediately enter into and complete any recommended treatment program by the end of supervision
- ~~☒ If a treatment program is not recommended, promptly complete Drug Information School~~
- ~~☒ Obtain a chemical dependency evaluation by a state-approved agency as ordered by the Department of Corrections, and complete any recommended treatment by the end of supervision~~
- ☒ Report for urinalysis as ordered by the Department of Corrections
- ☒ Submit to regular polygraph examinations about drug usage upon the request of the supervising Community Corrections Officer

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D. FINANCIAL OBLIGATIONS

4.D.1 Financial: The defendant shall pay financial obligations and abide by the conditions as set forth below. The defendant shall be under the jurisdiction and supervision of this Court for purposes of payment of financial obligations ordered until they are paid. The defendant shall report to the Yakima County Clerk, Yakima County Courthouse, Room 323, 128 North Second Street, Yakima, WA, within 24 hours of this order or release from incarceration, whichever is later. The defendant must notify the Yakima County Clerk's Office of changes in address or employment. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule. RCW 9 94A 760(7)(b)

4.D.2 Jurisdiction: All legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The clerk of the court is authorized to collect unpaid financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her financial obligations. RCW 9 94A 753(4) and RCW 9 94A 760(4)

4.D.3 Restitution, Costs, Assessments, and Fine: Defendant shall pay the following to the Yakima County Superior Court Clerk, Room 323, Yakima County Courthouse, Yakima, WA 98901

| | | |
|---------|----------------------|---|
| RTN | \$ 0.00 | Restitution distributed to _____, subject to modification |
| PCV | \$ 500.00 | Crime Penalty Assessment – felony or gross misd (RCW 7 68 035) |
| FRC | \$ 200.00 | Criminal filing fee |
| PUB | \$ 600.00 | Court appointed attorney recoupment (RCW 9 94A 760) |
| DNA | \$ 100.00 | DNA collection fee (any felony committed after 7/1/02) (RCW 43 43 7541) |
| FCM/MTH | \$ 1,000.00 | Fine to the State of Washington |
| DFK | \$ 250.00 | Drug enforcement fund – LEAD (RCW 9 94A 760) |
| | \$ 2,650.00 | TOTAL |

4.D.4 Costs of Incarceration: In addition to the above costs, the court finds that the defendant has the means to pay for the costs of incarceration, in prison at a rate of \$50.00 per day of incarceration or in the Yakima County Jail at the actual rate of incarceration but not to exceed \$100.00 per day of incarceration (the rate in 2012 is \$65.00 per day), and orders the defendant to pay such costs at the statutory rate as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 9 94A 760(2)

4.D.5 Costs of Medical Care: In addition to the above costs, the court finds that the defendant has the means to pay for any costs of medical care incurred by Yakima County on behalf of the defendant, and orders the defendant to pay such medical costs as assessed by the Clerk. Such costs are payable only after restitution costs, assessments and fines listed above are paid. RCW 70 48 130

4.D.6 ☐ Forfeiture of Funds: The financial obligations ordered above, in part or in full, shall be paid from defendant's funds held by _____ who is ordered to pay such funds to the Clerk of the above Court. Any balance shall be paid by the defendant.

4.D.7 Payments: Unless provided above, the Yakima County Clerk shall, after investigation, set a minimum monthly payment for the defendant to pay towards the financial obligations. The Clerk may modify the monthly payment amount. Payments shall first apply to any restitution. Costs and assessments shall be paid in 180 days after restitution is paid in full/release. All other fees shall be paid in 270 days after restitution is paid in full/release. The defendant shall pay financial obligations to the Clerk of the Court, Room 323, Yakima County Courthouse, Yakima, Washington.

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4.D.8 Payroll Deduction: Without further notice, the Yakima County Clerk may issue a Notice of Payroll Deduction at any time until all financial obligations are paid RCW 9 94A 7602 Other income-withholding action under RCW 9 94A 760 may be taken without further notice RCW 9 94A 7606

4.D.9 Interest, Judgment, and Collection: The financial obligations listed herein shall bear interest from the date hereof until paid in full at the rate applicable to civil judgments RCW 10 82 090 An award of costs on appeal against the defendant may be added to the total financial obligations RCW 10 73 160 The financial obligations listed above may be enforced in the same manner as a civil judgment The defendant shall pay the costs of services to collect unpaid legal financial obligations

4.D.10 Petition For Remission: The defendant, if not in willful default on financial obligations due hereunder, may at any time petition the court for remission of all or part of the financial obligations due, except restitution or interest on restitution, or to modify the method of payment under RCW 10 01 160 through RCW 10 01 180 and RCW 10 73 Non-restitution interest may be waived only after the defendant has either (a) paid the principal amount in full or (b) made at least fifteen monthly payments within an eighteen-month period, as set by the Clerk, and further payment of interest will cause a significant hardship RCW 10 82 090

V. NOTICES

The defendant, by signing below, acknowledges each of the statements in this section

5.1 Collateral Attack: The defendant may not file a petition or motion for collateral attack on a judgment and sentence in a criminal case more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction For purposes of this section, "collateral attack" means any form of post-conviction relief other than a direct appeal "Collateral attack" includes, but is not limited to, a personal restraint petition, a habeas corpus petition, a motion to vacate judgment, a motion to withdraw a guilty plea, a motion for a new trial, and a motion to arrest judgment under RCW 10 73 090 and RCW 10 73 100

5.2 Loss of Voting Rights: The defendant understands and acknowledges that

- 1 The defendant's right to vote is lost because of this felony conviction
- 2 If the defendant is registered to vote, his or her registration will be canceled
- 3 The defendant's right to vote is provisionally restored as long as the defendant is not under the authority of the department of corrections
- 4 The defendant must reregister before voting
- 5 The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations
- 6 The defendant's right to vote may be permanently restored by one of the following for each felony conviction
 - a A certificate of discharge issued by the Yakima County Superior Court, as provided in RCW 9 94A 637, or
 - b A court order issued by the Yakima County Superior Court restoring the defendant's right to vote, as provided in RCW 9 92 066, or
 - c A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9 96 050, or
 - d A certificate of restoration issued by the governor, as provided in RCW 9 96 020
- 7 Voting before the right to vote is restored is a class C felony under RCW 29A 84 660

5.3 Sentence Condition Violation: Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement for any violation related to a felony charge RCW 9 94A 633 Any violation of this Judgment and Sentence is punishable by up to the total number of confinement days suspended for any violation related to a non-felony charge

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5.4 Successful Completion: Upon successful completion of the requirements of the sentence, the defendant shall be eligible for a certificate of discharge RCW 9 94A 637

5.5 Firearms: The defendant understands that he or she must immediately surrender any concealed pistol license and may not own, use, or possess any firearm unless the right to do so is restored by a court of record (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment) RCW 9 41 040, 9 41 047

5.6 Restitution Hearing: If this box is checked ☐ and initialed here _____ then the defendant gives up or waives the right to be present at any restitution hearing

VI. SIGNATURES

DATED August 23, 2012

Presented by

Susan S. Silverthorn
SUSAN SWADBERG SILVERTHORN
Deputy Prosecuting Attorney
Washington State Bar No 38873

JUDGE

Approved as to form

Adam Moore
ADAM MOORE
Attorney for Defendant
Washington State Bar No 4458

Acknowledging the notices in Section V and
receiving a copy

DEFENDANT

INTERPRETER'S DECLARATION: I am a certified interpreter or have been found otherwise qualified by the court to interpret in the SPANISH language, which the defendant understands, and I have translated the notices in section V for the defendant from English into that language. The defendant acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Interpreter

Print Name

Date and Place

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VII. WARRANT OF CONFINEMENT

THE STATE OF WASHINGTON

TO The Yakima County Sheriff
TO The Yakima County Department of Corrections
TO The Washington State Department of Corrections

The defendant has been convicted in the Superior Court of the State of Washington of the crime of

**COUNT 1 - POSSESSION OF A CONTROLLED SUBSTANCE,
METHAMPHETAMINE, WITH INTENT TO DELIVER**

and the court has ordered that the defendant be punished as set out in the attached Judgment and Sentence

YOU ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence

DATED August 23, 2012

By the Direction of the Honorable

Hon. MICHAEL G McCARTHY

JUDGE


KIM M EATON, Clerk

By

Sandra Gale
Deputy Clerk



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| | | |
|---|---------------------------|----------------|
| Defendant | EDGAR OMAR HERRERA FARIAS | SID WA26621683 |
|  | | |

FINGERPRINT CERTIFICATE OF ATTESTATION

STATE OF WASHINGTON)
)
County of Yakima) ss

I, Kim M. Eaton, Yakima County Clerk and ex-officio Clerk of the Superior Court, hereby attest that the fingerprints appearing on this certificate are the fingerprints of the above-named defendant, and were affixed in open court on August 23, 2012

DATED August 23, 2012

KIM M. EATON, Clerk

By: Sandra Galt
Deputy Clerk



Address of Defendant

